KAUAI PLANNING COMMISSION **REGULAR MEETING**

Tuesday, September 11, 2018

9:00 a.m. or Soon Thereafter Līhu'e Civic Center, Moikeha Building **Meeting Room 2A-2B** 4444 Rice Street, Lihue, Kauai, Hawai'i

RECEIVED

SEP -5

AGENDA

- CALL TO ORDER A.
- B. ROLL CALL
- C. APPROVAL OF AGENDA
- D. MINUTES of the meeting(s) of the Planning Commission
 - Meeting of July 24, 2018
- Ε. RECEIPT OF ITEMS FOR THE RECORD
- F. **HEARINGS AND PUBLIC COMMENT** (Noticed hearings will not commence until 9:00 a.m. or soon thereafter.) Individuals may orally testify on items on this agenda during the Public Comment Period. Please call the Planning Department prior to the meeting or notify Commission Staff at the meeting site. Testimony shall also be accepted when the agenda item is taken up by the Commission. However if an individual has already testified during this period, additional testimony at the agenda item testimony may be allowed at the discretion of the Chair. Testifiers shall limit their testimony to three (3) minutes, but may be extended longer at the discretion of the Chair. Written testimony is also accepted. An original and twelve (12) copies of written testimony can be hand delivered to the Planning Department or submitted to Commission Staff at the meeting site.
 - 1. **Continued Agency Hearing**
 - **New Agency Hearing** 2.
 - a. Special Permit SP-2019-1 to deviate from the minimum lot size requirement, as prescribed by Hawaii Revised Statutes (HRS) Section 205-2(4)(c), involving a 2lot subdivision within the Residential (R-2) zoning district on a parcel situated on the makai side of Kamalu Road in Wailua Homesteads, approx. 200 ft. south of the Crossley Road/Lokelani Road intersection and further identified as 1270 Crossley Road, Tax Map Key: (4) 4-4-005:036, and containing a total area of 40,000 sg. ft. = John K. Morioka Trust.
 - 1. Director's Report pertaining to this matter.
 - **Continued Public Hearing**

P3:17

F. HEARINGS AND PUBLIC COMMENT (Cont'd)

- 4. New Public Hearing
- 5. All remaining public testimony pursuant to HRS 92 (Sunshine Law)

G. <u>CONSENT CALENDAR</u>

1. Status Reports

- a. Transmittal (7/24/18) from Kanani Fu, Director, Kauai County Housing Agency, transmitting the 2018 Annual Report for the State Land Use Commission Docket No. A17-802/County of Kauai Housing Agency Lima Ola 201H.
- b. Annual Status Report 2018 for Special Management Area Use Permit SMA(U)-2005-08, Project Development Use P.D. U-2005-26, Use Permit U-2005-25, and Class IV Zoning Permit Z-IV-2005-30, Tax Map Key: (4) 3-5-001:027 (Por.), 168, 169, 171 (Por.), 172 (Por.), 175, and 176 = Kauai Lagoons LLC & MORI Golf (Kauai) LLC.
 - 1. Director's Report pertaining to this matter.

2. Director's Report(s) for Project(s) Scheduled for Agency Hearing on 9/25/18.

- a. Special Management Area Use Permit SMA(U)-2019-1 and Class IV Zoning Permit Z-IV-2019-1 for the construction of twenty-two (22) mounded LPG storage tanks and associated improvements (underground transmission pipelines) on parcels located in the Nawiliwili Harbor area in the vicinity of Pier 2, further identified as Tax Map Keys: (4) 3-2-004:016 (Por.), 021-023, 053; 3-2-003:001-004, 007, and affecting a total area of approx. 2 acres = *The Gas Company*, *LLC*.
 - 1. Director's Report pertaining to this matter.
- b. Class IV Zoning Permit Z-IV-2019-2, Use Permit U-2019-1, and Special permit SP-2019-2 to demolish and replace the existing water tank with a new 1.0 MG tank on a parcel situated on the mauka side of Kuhio Highway in Waiakalua, approx. 500 ft. southeast of the terminus of Wailapa Road, further identified as Tax Map Key: (4) 5-1-005:131, and containing a total area of 22,868 sq. ft. = County of Kauai, Department of Water.
 - 1. Director's Report pertaining to this matter.
- c. Class IV Zoning Permit Z-IV-2019-3 and Variance Permit V-2019-1 to deviate from the lot length requirements within the Residential (R-2) zoning district, pursuant to Sections 8-4.4(a)(3)(A) & 8-4.4(a)(3)(B) of the Kauai County Code (1987), as amended, involving an 8-lot subdivision of a parcel situated on the eastern side of Kamalu Road in Wailua Homesteads, approx. 350 ft. south of the Kamalu Road/Opaekaa Road intersection, further identified as 370 A Kamalu Road, Tax Map Key: (4) 4-2-003:023, and containing a total area of 4.068 acres = Alexander and Vivian Youn Family Trust.
 - 1. Director's Report pertaining to this matter.

H. EXECUTIVE SESSION

1. Pursuant to Hawaii Revised Statutes 92-4 and 92-5(a)(4), the purpose of this executive session is to consult with County's legal counsel on questions, issues, status and procedural matters. This consultation involves consideration of the powers, duties, privileges, immunities, and/or liabilities of the Commission and the County as they relate to CC-2017-6 = Anininina LLC., CC-2017-10 = Boomerang, Ltd., CC-2018-1 = Elizabeth Kendrick and Joe Chaulklin, CC-2017-5 = PMD Hanalei, LLC., CC-2017-7 = Kauains LLC nka JJGrat LLC., CC-2017-8 = Kauains LLC (Hanalei Nalu), CC-2017-9 = Kauains LLC (Paniolo Cottage), CC-2016-12 = Carole Theiss.

I. GENERAL BUSINESS MATTERS

- 1. Request (7/2/18) to amend Condition No. 21 of Project Development Use Permit PDU-2008-11, Class IV Zoning Permit Z-IV-2008-12 and Use Permit U-2008-10, Tax Map Key (4) 2-8-008:001, to allow additional time complete construction of the project in Koloa Town, Koloa, Kauai = Koloa Village, LLC (formerly Koloa Town, LLC.)
 - a. Director's Report pertaining to this matter.
- 2. In the Matter of Petition to Appeal Decision of Planning Director Relating to the Forfeiture of TVNCU #1202 (Hiolani at Haena, now known as "Hiolani" TVR) for Failure to Timely Renew for Property Situated in Haena, Kauai, Hawaii, identified by TMK No. (4) 5-5-008:040, and containing 25,500 square feet = Anininina LLC (CC-2017-6).
 - a. Hearing Officer's Report and Recommendation of Contested Case.
 - b. Petitioner Anininina LLC's Exceptions to Hearing Officer's Report and Recommendation of Contested Case Entered on July 19, 2018; Request for Oral Argument; Certificate of Service.
 - c. Respondent Planning Department of the County of Kauai's Support of the Hearing Officer's Reports and Recommendations; Certificate of Service.
- 3. In the Matter of Petition to Appeal Decision of Planning Director Relating to the Forfeiture of TVNCU #5035 (Mango Cottage) for Failure to Timely Renew for Property Situated in Koloa, Kauai, Hawaii, identified by Kauai TMK No. (4) 2-6-007:034, and containing 7,993 square feet = **Boomerang**, **Ltd.** (CC-2017-10).
 - a. Hearing Officer's Report and Recommendation of Contested Case.
 - b. Petitioner Boomerang Ltd's Exceptions to Hearing Officer's Report and Recommendation of Contested Case Entered on July 19, 2018; Request for Oral Argument; Certificate of Service.
 - c. Respondent Planning Department of the County of Kauai's Support of the Hearing Officer's Reports and Recommendations; Certificate of Service.

I. <u>GENERAL BUSINESS MATTERS</u> (Cont'd)

4. In the Matter of Petition to Appeal Decision of Planning Director Relating to the Forfeiture of Non-Conforming Use Certificate TVNCU #4308 (Ginger Beach House) for Failure to Timely Renew and Denial of 2017 Transient Vacation Rental Renewal Application Form at 4176 Anahola Road (aka 4176 Pilikai Road) for Property Situated in Anahola, Kauai, Hawaii, identified by Kauai TMK No. (4) 4-8-007:0002, and containing 10,590 square feet = Elizabeth Kendrick and Joe Chaulklin (CC-2018-1).

a. Hearing Officer's Report and Recommendation of Contested Case.

b. Petitioners Elizabeth Kendrick's and Joe Chaulklin's Exceptions to Hearing Officer's Report and Recommendation of Contested Case Entered on July 19, 2018; Request for Oral Argument; Certificate of Service.

c. Respondent Planning Department of the County of Kauai's Support of the Hearing Officer's Reports and Recommendations; Certificate of Service.

5. In the Matter of Petition to Appeal Decision of Planning Director Relating to the Forfeiture of TVNCU #1166 (Weke Road Estate, now known as Hanalei House) for Failure to Timely Renew for Property Situated in Hanalei, Kauai, Hawaii, identified by Kauai TMK No. (4) 5-5-002:012, and containing 2.0087 acres = **PMD Hanalei**, **LLC (CC-2017-5)**.

a. Hearing Officer's Report and Recommendation of Contested Case.

- b. Petitioner PMD Hanalei LLC's Exceptions to Hearing Officer's Report and Recommendation of Contested Case Entered on July 19, 2018; Request for Oral Argument; Certificate of Service.
- c. Respondent Planning Department of the County of Kauai's Support of the Hearing Officer's Reports and Recommendations; Certificate of Service.
- 6. In the Matter of Petition to Appeal Decision of Planning Director Relating to the Forfeiture of TVNCU #5089 (Hanalei Ilikea, now known as Kahakai Beach Cottage) for Failure to Timely Renew for Property Situated in Hanalei, Kauai, Hawaii, identified by Kauai TMK No. (4) 5-5-001:022, and containing 24,195 square feet = Kauains LLC nka JJGrat LLC (CC-2017-7).

a. Hearing Officer's Report and Recommendation of Contested Case.

- b. Petitioner JJGrat LLC's Exceptions to Hearing Officer's Report and Recommendation of Contested Case Entered on July 19, 2018; Request for Oral Argument; Certificate of Service.
- c. Respondent Planning Department of the County of Kauai's Support of the Hearing Officer's Reports and Recommendations; Certificate of Service.
- 7. In the Matter of Petition to Appeal Decision of Planning Director Relating to the Forfeiture of TVNCU #5090 (Hanalei Nalu, now known as "Nalu Cottage" TVR) for Failure to Timely Renew for Property Situated in Hanalei, Kauai, Hawaii, identified by Kauai TMK No. (4) 5-5-001:023, and containing 25,005 square feet = Kauains LLC (Hanalei Nalu) (CC-2017-8).

a. Hearing Officer's Report and Recommendation of Contested Case.

b. Petitioner Kauains LLC's Exceptions to Hearing Officer's Report and Recommendation of Contested Case Entered on July 19, 2018; Request for Oral Argument; Certificate of Service.

c. Respondent Planning Department of the County of Kauai's Support of the Hearing Officer's Reports and Recommendations; Certificate of Service.

I. GENERAL BUSINESS MATTERS (Cont'd)

In the Matter of Petition to Appeal Decision of Planning Director Relating to the Forfeiture of TVNCU #5091 (Hanalei Bay Hale, now known as "Paniolo Cottage" TVR) for Failure to Timely Renew for Property Situated in Hanalei, Kauai, Hawaii, identified by Kauai TMK No. (4) 5-5-001:024, and containing 25,816 square feet = Kauains LLC (Paniolo Cottage) (CC-2017-9).

a. Hearing Officer's Report and Recommendation of Contested Case.

b. Petitioner Kauains LLC's Exceptions to Hearing Officer's Report and Recommendation of Contested Case Entered on July 19, 2018; Request for Oral Argument; Certificate of Service.

c. Respondent Planning Department of the County of Kauai's Support of the Hearing Officer's Reports and Recommendations; Certificate of Service.

Notice of Appeal and Demand for Contested Case Hearing from Denial of Nonconforming Use Certificate Renewal Applications, by Gregory W. Kugle and Joanna C. Zeigler, Attorneys for *Kauaians LLC* at:

5032 Weke Road, Hanalei HI 96714 (TVNC #5090) = Kauains LLC (Hanalei

Nalu) (CC-2017-8)

- 5042 Weke Road, Hanalei, HI 96714 (TVNC #5091) = Kauains LLC (Paniolo Cottage) (CC-2017-9)
- 5020 Weke Road, Hanalei, HI 96714 (TVNC #5089) = Kauains LLC nka JJGrat LLC (CC-2017-7).
- a. Clerk of the Commission's Recommendation to Refer 8/9/18 Appeals of the Planning Department's Decision Related to the Denial of 2018 Non-Conforming Use Certificate Renewal Packets, for the below referenced TVRNCU's, who received an amended Cease & Desist and Forfeiture dated August 16, 2017, for the following:

1. TVNC #5089, Kauains LLC nka JJGRAT, TMK 55001022, 5020 Weke

Road (Contested Case Hearing No. CC-2018-7)

2. TVNC #5090, Kauains LLC, TMK 55001023, 5032 Weke Road (Contested Case Hearing No. CC-2018-5)

3. TVNC #5091, Kauains LLC, TMK 55001024, 5042 Weke Road (Contested Case Hearing No. CC-2018-6)

to the County of Kauai Boards and Commission Office to conduct the required analysis and contested case hearings related to the above referenced appeals.

- 10. Status on Class IV Zoning Permit Z-IV-2015-8, Project Development Use Permit P.D. U-2015-7, Variance Permit V-2015-1 and Special Management Area Use Permit SMA(U)-2015-6 = Coco Palms Hui, LLC.
- 11. Notice of Appeal and Demand for Contested Case Hearing from: (1) Cease and Desist & Forfeiture of Non-Conforming Use Certificate TVNCU #1032; and (2) Denial of Renewal Application by Gregory W. Kugle and Joanna C. Zeigler, Attorneys for Christopher James at Tax Map Key 5-5-001-014, 4922 Weke Road, Hanalei, Kauai, Hawaii 96714.
 - a. Clerk of the Commission's Recommendation to Refer 8/27/18 Appeal of the Planning Director's Decision Related to the Cease and Desist & Forfeiture of Non-Conforming Use Certificate #1032 for failure to timely renew, and the Department's 8/14/18 Denial of Untimely Non-Conforming Use Certificate Packet as required by Kauai County Code, Sec. 8-17.10(h)(1) for TVNC #1032, Christopher James, TMK 55001014 (Contested Case No. CC-2018-9) to the County of Kauai Boards and Commission Office to conduct the required analysis and contested case hearings related to the above referenced appeal.

I. GENERAL BUSINESS MATTERS (Cont'd)

- 12. Notice of Appeal and Demand for Contested Case Hearing from Denial of Nonconforming Use Certificate Renewal Application at 2659 Puuholo Road, Kola, Hawaii 96756, TVNC No. 5035, by Gregory W. Kugle and Joanna C. Zeigler, Attorneys for *Boomerang*, *Ltd.* at Tax Map Key 2-6-007-034.
 - a. Clerk of the Commission's Recommendation to Refer 8/28/18 Appeal of the Planning Department's Denial of 2018 Non-Conforming Use Certificate Packet for TVNCU #5035, who received an amended Cease & Desist, and forfeiture of TVRNCU letter dated August 16, 2017, Boomergang Ltd., TMK 26007034 (Contested Case Hearing No. CC-2018-10) to the County of Kauai Boards and Commission Office to conduct the required analysis and contested case hearings related to the above referenced appeal.
- 13. Notice of Appeal and Demand for Contested Case Hearing from Denial of Nonconforming Use Certificate Renewal Applications at 7214 Alamoo Road, Haena, HI 96714, TVNC No. 1202, by Gregory W. Kugle and Joanna C. Zeigler, Attorneys for *Anininina*, *LLC* at Tax Map Key 5-8-008-040.
 - a. Clerk of the Commission's Recommendation to Refer 7/31/18 Appeal of the Planning Department's Denial of 2018 Non-Conforming Use Certificate Packet for TVNCU #1202, who received an amended Cease & Desist, and Forfeiture of TVRNCU letter dated August 15, 2017, Anininina LLC, TMK 58008040 (Contested Case Hearing No. CC-2018-11) to the County of Kauai Boards and Commission Office to conduct the required analysis and contested case hearings related to the above referenced appeal.
- 14. Notice of Appeal and Demand for Contested Case Hearing from Denial of Nonconforming Use Certificate Renewal Applications at 5204 Weke Road, Hanalei, HI 96714, TVNC No. 1166, by Gregory W. Kugle and Joanna C. Zeigler, Attorneys for *PMD Hanalei*, *LLC* at Tax Map Key 5-5-002-012.
 - a. Clerk of the Commission's Recommendation to Refer 7/31/18 Appeal of the Planning Department's Denial of 2018 Non-Conforming Use Certificate Packet for TVNCU #1166, who received an amended Cease & Desist and Forfeiture of TVRNCU letter dated August 16, 2017, PMD Hanalei, LLC, TMK 55002012 (Contested Case Hearing No. CC-2018-12) to the County of Kauai Boards and Commission Office to conduct the required analysis and contested case hearings related to the above referenced appeal.
- 15. Petition to Appeal Decision of Planning Director Related to the Forfeiture of TVNCU #1368 (Coco Cabana) for Failure to Timely Renew for Property Situated in Hanalei, Kauai, Hawaii, identified by Kauai TMK No. (4) 5-8---5:002 containing 1.92 acres = Carole Theiss (CC-2016-12).
 - a. Hearing Officer's Report and Recommendation of Contested Case; Certificate of Service (8/20/18).

I. GENERAL BUSINESS MATTERS (Cont'd)

- 16. Petition to Appeal a Decision by Karin Watson (8/27/18) related to Certificate TVNCU #1060 (Fortune Cottage), 4075 Anini Road, TMK 53006007, Anini, Kauai = Fortune Family Trust (CC-2018-13).
 - a. Clerk of the Commission's Recommendation to Refer 8/27/18 Appeal of the Planning Department's Decision Related to the Denial of Non-Conforming Use Certificate Packet submitted on 8/13/18, as required by Kauai County Code, Sec. 8-17.10(h)(1) for TVNCU #1060, Fortune Family Trust, Anini, Kauai, TMK 53006007 (Contested Case No. CC-2018-13) to the County of Kauai Boards and Commission Office to conduct the required analysis and contested case hearings related to the above referenced appeal.

J. <u>COMMUNICATION</u> (For Action)

K. <u>COMMITTEE REPORTS</u>

1. <u>Subdivision</u> Subdivision Action matters listed in the Subdivision Committee Agenda (attached).

L. UNFINISHED BUSINESS (For Action)

M. <u>NEW BUSINESS</u>

1. For Action – See Agenda F for Project Descriptions

N. ANNOUNCEMENTS

- 1. Topics for Future Meetings
- 2. The following regularly scheduled Planning Commission meeting will be held at 9:00 a.m., or shortly thereafter at the Lihue Civic Center, Moikeha Building, Meeting Room 2A-2B, 4444 Rice Street, Lihue, Hawaii 96766 on **Tuesday**, **September 25**, 2018.

O. ADJOURNMENT

EXECUTIVE SESSION: The Commission may go into an executive session on an agenda item for one of the permitted purposes listed in Section 92-5(a) Hawaii Revised Statutes ("H.R.S."), without noticing the executive session on the agenda where the executive session was not anticipated in advance. HRS Section 92-7(a). The executive session may only be held, however, upon an affirmative vote of two-thirds of the members present, which must also be the majority of the members to which the board is entitled. HRS Section 92-4. The reason for holding the executive session shall be publicly announced.

NOTE: If you need an ASL Interpreter, materials in an alternate format, or other auxiliary aide support, or an interpreter for a language other than English, please contact Lani Agoot at (808)241-4917 or lagoot@kauai.gov at least seven calendar days prior to the meeting.

KAUA'I PLANNING COMMISSION SUBDIVISION COMMITTEE MEETING

Līhu'e Civic Center, Mo'ikeha Building Meeting Room 2A-2B 4444 Rice Street, Līhu'e, Hawaii 96766

Tuesday, August 28, 2018, 8:30 A.M.

AGENDA

- A. CALL TO ORDER
- B. ROLL CALL
- C. <u>APPROVAL OF AGENDA</u>
- D. MINUTES of the meeting(s) of the Subdivision Committee
 - 1. Meeting of July 24, 2018
- E. RECEIPT OF ITEMS FOR THE RECORD (None)
- F. HEARINGS AND PUBLIC COMMENT

Individuals may orally testify on items on this agenda during the Public Comment Period. Please call the Planning Department prior to the meeting or notify Commission Staff at the meeting site. Testimony may also be accepted when the agenda item is taken up by the Commission at the discretion of the Chair. Testifiers shall limit their testimony to three (3) minutes, but may be extended longer at the discretion of the Chair. Written testimony is also accepted. An original and twelve (12) copies of written testimony can be hand delivered to the Planning Department or submitted to Commission Staff at the meeting site.

- G. GENERAL BUSINESS MATTERS (None)
- H. <u>UNFINISHED BUSINESS</u> (For Action)
 - Tentative Subdivision Map Approval
 - a. Subdivision Application No. S-2018-15
 (Kilauea 'Ohana Plateau LLC, ET AL)

 Proposed 10-lot Subdivision
 TMK: (4) 5-2-005:023
 Kilauea, Kaua'i
 - 1. Subdivision Report pertaining to this matter.

I. <u>NEW BUSINESS</u> (For Action)

1. Tentative Subdivision Map Approval

a. Subdivision Application No. S-2018-19
 (Jonathan Hurd)
 Proposed 3-lot Consolidation
 TMK: (4) 1-9-011:004
 Hanapepe, Kaua'i

1. Subdivision Report pertaining to this matter.

2. Final Subdivision Map Approval

 a. Subdivision Application No. S-2011-16 (Cameron K. Burgess)
 Proposed 4-lot Subdivision
 TMK: (4) 4-1-008:013
 Wailua, Kaua'i

- 1. Subdivision Report pertaining to this matter.
- b. Subdivision Application No. S-2018-11 (Kenneth C. Medieros)
 Proposed 2-lot Subdivision
 TMK: (4) 2-7-005:154
 Koloa, Kaua'i
 - 1. Subdivision Report pertaining to this matter.

3. <u>Subdivision Extension Request</u>

a. Subdivision Application No. S-2017-9
 (Bridget Morse)
 Proposed 2-lot Subdivision
 TMK: (4) 5-5-006:016
 Hanalei, Kaua'i

1. Subdivision Report pertaining to this matter.

J. ADJOURNMENT

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Pursuant to Section 8-27.8 (6) of the Kaua'i County Code (1987), as amended, the following shoreline setback determinations by the Director are disclosed for purposes of public notification.

September 11, 2018

SHORELINE SETBACK DETERMINATIONS

Application No.	Name of Applicant(s)	Property I.D. (Tax Map Key)	Location	Reasons
SSD-2019-1	Jude & Diedre Basile	2-8-020:008	Poipu	Interior Renovations Unit #47
SSD-2019-2	Nuttall Family Revocable Trust	2-6-005:014	Poipu	Interior Renovations Unit #414
SSD-2019-3	Frank P. Cano III	1-8-109:023	Eleele	Addition of Bathroom
SSD-2019-4	Pila'a International LLC	5-1-004:008	Kilauea	Dwelling Unit, Accessory Structure, Amphitheater and Related Improvements
SSD-2019-5	3 Palms, LLC	5-5-002:107	Hanalei	Conversion of Historic Dwelling Unit into Accessory Structure with New Deck, New Dwelling Unit, Guest House, Hot Tub, 6' Wood Fencing, Outdoor Shower and Site Utilities
SSD-2019-6	Zellie Nelson	5-4-012:011	Princeville	Atrium Roof Repairs
SSD-2019-7	Teo Cervantes	4-9-014:027	Moloa'a	Remove Bedroom
SSD-2019-8	The Gas Company, LLC	3-2-003:001, 002, 003, 004, 999 and 007 and 3-2-	Nawiliwili	Additional LPG Storage Facility

		004:008, 018, 019, 034, 039, 041, 021, 022, 023, 053 and 016.		
SSD-2019-9	Joseph M. Horak	4-5-002:002	Kapaa	New Single Family Residence
SSD-2019-10	Marriott Kauai Ownership	3-5-002:002	Nawiliwili	Interior Renovations to Existing Hotel/Timeshare 232 Units
SSD-2017-50	Campbell Murphy Investments, LLC	4-9-014:006	Moloaa	Rock Wall and Hedge
SSD-2019-11	Warren Owens	4-7-007:010	Kealia	Farm Dwelling and Accessory Structures
SSD-2019-12	Nathan Hamar	5-5-001:012	Hanalei	Repair Main Residence and ADU
SSD-2019-13	Deborah Manoogian	5-5-005:018	Hanalei	Repair Main Residence and ADU